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ABSTRACT

This report addresses states' definitions and assessment guidelines for the category of traumatic brain injury, newly identified as a disability under the Individuals with Disabilities Education Act. Information sources included state policy documents from 19 states and interviews with state education agency personnel. A background section discusses the federal regulations pertaining to traumatic brain injury. A section on findings compares states' definitions to the federal definition, reports on how states determine eligibility for special education services, and notes the potential for litigation concerning identification of students. The study concludes that states are prepared to identify and appropriately serve children and youth with traumatic brain injury. State agency personnel recognize the need to provide local districts with the training and information for effective decision making regarding students with traumatic brain injury, and expressed a need to obtain resource guides and inservice training materials for distribution to local education agencies. Six selected resources are listed. (JDD)

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DEFINITIONS AND GUIDELINES CONCERNING STUDENTS WITH TRAUMATIC BRAIN INJURY A BRIEF REPORT

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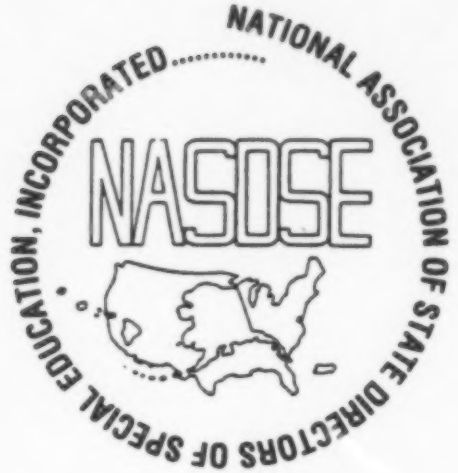

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ANALYSIS OF STATE DEFINITIONS AND GUIDELINES CONCERNING STUDENTS WITH TRAUMATIC BRAIN INJURY A BRIEF REPORT

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Executive Summary

Traumatic brain injury is a new disability category under the IDEA. States have been gearing up to define this new category and implement procedures to identify children and youth who are entitled to the protections and services of the IDEA by virtue of meeting the criteria of this category. This report concerns States' definitions and assessment guidelines for the new category of traumatic brain injury. The report is divided into four sections: (1) background and framework, (2) questions for analysis, (3) method, and (4) findings and implications for implementation of the IDEA.

State policy documents from 19 States were reviewed and State Directors of Special Education and other State Education Agency personnel were interviewed to gather information about definitions, service delivery guidelines, and what, if any, problems were being encountered.

It appears that States are prepared to identify and appropriate serve children and youth with traumatic brain injury. State policymakers also recognize the need to provide local districts with the training and information for effective decision making regarding students with traumatic brain injury. State Directors and State Education Agency personnel interviewed expressed a need to obtain resource guides and inservice training materials for distribution to local school districts.

ANALYSIS OF STATE DEFINITIONS AND GUIDELINES CONCERNING STUDENTS WITH TRAUMATIC BRAIN INJURY

Introduction

Project FORUM continuously monitors a variety of sources to identify significant issues related to the implementation of the Individuals with Disabilities Education Act (IDEA) that are of high interest at the State level. These sources of information include information and questions posted to a variety of SpecialNet bulletin boards, formal and informal communication with State Directors and State Education Agency personnel, inquiries received at NASDSE from other special education stakeholders, newsletters, professional journals, and periodicals. Project FORUM keeps track of this information in its Issues Tracking Database. Periodically, Project FORUM utilizes the Issues Tracking Database to identify high priority policy related topics for conducting small scale investigations. The reports of these investigations highlight critical features of policy and supply information for consideration in developing or implementing policy in a concise format and in a timely manner.

Traumatic brain injury is a new disability category under the IDEA. States have been required to define this new category and implement procedures to identify children and youth who are entitled to the protections and services of the IDEA by virtue of meeting the criteria of this category. States reported serving 330 children under this disability category on December 1, 1992. This report concerns States' definitions and assessment guidelines for the new category of traumatic brain injury. The report is divided into four sections: (1) background and framework, (2) questions for analysis, (3) method, and (4) findings and implications for implementation of the IDEA.

Background and Framework

The category of traumatic brain injury was added to the list of disability categories in the IDEA in 1990. The regulations governing implementation of the IDEA were amended to define this category as follows.

> "Traumatic brain injury" means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries

that are congenital or degenerative, or brain injuries induced by birth trauma [34CFR§300.7(b)(12)].

Analysis of this definition identifies two factors to consider in making a determination that a student who has experienced a traumatic brain injury is eligible for special education.

1. There must first be documentation that the student's brain has been injured by an "external physical force."

2. There must also be evidence that this injury has caused a functional disability or psychosocial impairment that adversely affects the student's educational performance.

The federal regulation also provides a listing of functional areas that can be affected by the injury. The list is both extensive and definitive covering behaviors and skills related to major life functions and learning. Any particular individual may be affected in more than one area. Therefore, the process for assessment of students who have experienced a traumatic brain injury should be comprehensive enough to screen for possible deficits in all thirteen areas. Thorough evaluation would occur in all areas flagged through the screening process.

The regulations initially proposed to implement this requirement included the phrase "or by an internal occurrence such as by stroke or aneurysm." The discussion accompanying the final regulations (34 CFR Parts 300 and 301, Appendix; Federal Register, Vol. 57, No. 189, 44842-44843) explains the absence of this phrase in final regulation by asserting that children whose educational performance is affected by these types of internal traumas may be served under the categories of "other health impaired", "specific learning disabilities", or "multiple disabilities"; therefore, the phrase using the term "internally occurring traumas" was deleted.

One of the most difficult aspects of identifying students with traumatic brain injury is determining when the "rehabilitation phase" of recovery with its accompanying medically necessary treatments has ended or when the individual is no longer so medically fragile that participation in educational programs and resumption of other "normal" life functions would be harmful or life threatening. Addressing the complicated needs of students with traumatic brain injury often requires interagency collaboration for funding and coordination of service delivery among medical, rehabilitation, social service, mental health, and education agencies. Provision of appropriate assistive technology devices as a related service[1] is often a consideration. This distinction between a service that is medically necessary and one that is necessary for provision of special education becomes significant when determining whether the school system or some other agency must arrange for and pay for the service.

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[1] Related services are defined at 34CFR§300.16(a).

All States have developed definitions and guidelines for serving students under this new category of disability. State education agencies are making efforts to clarify distinctions between medical treatments and educational programs provided at rehabilitation facilities or hospitals, providing related services and assistive technology for this population, and coordinating transition services.

Specific Questions for Analysis

Analysis of the questions, information, and inquiries tracked in Project FORUM's Issues Tracking Database resulted in formulation of several questions for investigation:

- Do States have policies and guidelines regarding distinctions between medical and related services for students with traumatic brain injury?
- How do States distinguish between students with *other health impairments* and those with *traumatic brain injury*? Is distinction between *open* and *closed* head injury a factor in making this decision?
- Do States have specific policy or guidelines pertaining to the identification and assessment of students with traumatic brain injury that are different from those for identifying students with other disabilities?
- Do States serve some students with traumatic brain injury under §504 rather than the IDEA? If so, how does assessment and service delivery under §504 differ from the IDEA? Do States provide guidelines to local education agencies on this issue?
- What information do States currently have available on this topic?
- What information do States need to more effectively identify and serve students with traumatic brain injury?
- What recommendations can be made for State-level policymakers and implementers?

Method

Sources of Information: Project FORUM staff discussed the questions with Regional Resource Center personnel who are also interested in what States were doing about the new traumatic brain injury category. Project FORUM staff scanned its own electronic State Policy Database to locate a sample of State definitions for traumatic brain injury and related

regulations for assessment of students suspected of having this disability. RRC staff contributed additional State definitions and guidelines from their libraries.

Forming the Communication Panel and Verifying the Questions: Three State Directors were chosen to react and comment on the questions listed above. They were contacted by phone and asked to respond to whether the list of questions accurately represented the kinds of decisions they faced in fulfilling their administrative responsibilities with respect to children and youth with traumatic brain injury, provide answers to the specific questions, and clarify information previously gathered.

Findings and Implications for Policy

An examination of 19 States' definitions for identification of students with traumatic brain injury indicated that 10 of the States included the term "internal occurrence" in their definition. The definitions used in these States conform to the one originally **proposed** by the Department of Education in which individuals who had experienced either external or internal injury to the brain were included. One State's definition conformed to the revised Federal definition only including traumatic brain injury due to external causes. The other eight States' definitions did not specifically state anything about the trauma resulting from external or internal causes. By not being specific (i.e., leaving out the qualifying language "external physical force") these States' definitions could be construed broadly enough to cover either type of injury.

The definitions used by the three States selected for interviews also varied. The definitions for Nebraska, Indiana, and Wyoming are as follows:

> *Nebraska.* Traumatic brain injury shall mean an injury to the brain caused by an external physical force or by an internal occurrence such as stroke or aneurysm, resulting in total or partial functional disability or psychosocial impairment that adversely affects educational performance. The term includes open or closed head injuries resulting in mild, moderate or severe impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma. [Title 92, Chapter 51, 003.07K]
>
> *Indiana.* A "traumatic brain injury" is an impairment which adversely affects a student's educational performance and is manifested by limited strength, vitality, alertness, or other impaired or arrested development due to a traumatic brain injury. [511 IAC 7-11-12, Sec. 12(a)]

Wyoming. Traumatic Brain Injury Disability: an injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's education performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions information processing; and speech. The term does not include congenital or degenerative injuries or injuries induced by birth trauma. [Chapter VII, Sec. 1b(1)]

State Education Agency Personnel from Indiana, Nebraska, and Wyoming were asked if their States have developed specific guidelines or policies clarifying when medical services could be provided to students with traumatic brain injury as a related service necessary to implement their Individualized Education Program. This particular distinction was anticipated to be important because of the extensive involvement of physicians and other medical personnel in the treatment of individuals with traumatic brain injury. The regulations implementing the IDEA (34 CFR 300.16(a)) restrict medical services provided as a related service for a child with a disability to "services provided by a licensed physician to determine a child's medically related disability ..." However, these three States had not, as yet, found it necessary to develop specific guidelines or policies regarding medical services for students with traumatic brain injury.

State Education Agency personnel were asked several questions concerning the process for determining when a student had a traumatic brain injury that qualified the student for services under §504 and/or the IDEA. Indiana, Nebraska, and Wyoming tend to employ the same procedural requirements for assessment and determination of eligibility under the IDEA for students with traumatic brain injury as they do for students with all other disabilities. Personnel in all three States interviewed reported that assessment and eligibility determination for students with traumatic brain injury under §504 did not differ markedly from assessment and eligibility determination for students with other disabilities.

While none of the States has experienced legal action concerning students with traumatic brain injury, the State Directors and State Education Agency personnel interviewed did acknowledge the potential for litigation around identification of students with traumatic brain injury. One State reported that there was an active movement to gather support for amending the Federal definition to include traumatic brain injury due to internal occurrences. As might be expected, the impetus for this movement derived from an individual student receiving a head injury from internal causes. While this situation appeared to be unique, State Education Agency personnel did anticipate that there could be future disputes over eligibility under the new category of traumatic brain injury.
In spite of the potentially developing action described above, most individuals interviewed felt that the issue of including language reflecting brain injury resulting from both internal and external causes was not a high priority. However, some interviewees reported that their

State might change their definition to conform to the Federal language. State Directors and State Education Agency personnel reported that they were appropriately serving ALL the children who had experienced a traumatic brain injury that needed to be served regardless of the origin of the injury. Students are classified under traumatic brain injury, other health impaired, or learning disabled as appropriate based on the individual assessment and needs of the student. At this point, there had been little controversy over eligibility determination or assessment guidelines for these children and, therefore, specific guidelines distinguishing which disability category was appropriate based on the source of the injury or other criteria related to the traumatic event were not necessary.

State Education Agency personnel were asked about information they needed to more effectively serve students with traumatic brain injury. They reported being concerned about issues of technical assistance to local education agencies on delivery of services to students with traumatic brain injury. One State Education Agency staff member, for example, suggested that States needed to address questions such as:

- What information should the State Education Agency provide to LEA's regarding the reintegration to school of a student following traumatic brain injury?

- What type of training should the State Education Agency provide to LEA's concerning the evaluation and delivery of services to students with traumatic brain injury?

State Directors and State Education Agency personnel interviewed believe that other State-level policy implementers also needed information about the provision of technical assistance to local education agencies. Some State Education Agencies (e.g., Oregon, Utah) reported being very proactive in gathering materials, developing training manuals, and providing technical assistance concerning serving children and youth with traumatic brain injury. Some of these documents and resources are listed at the end of this report.

It appears that States are prepared to identify and appropriately serve children and youth with traumatic brain injury. State agency personnel also recognize the need to provide local districts with the training and information for effective decision making regarding students with traumatic brain injury. State Directors and State Education Agency personnel interviewed expressed a need to obtain resource guides and inservice training materials for distribution to local education agencies.

Selected Resources on Students with Traumatic Brain Injury

Carter, S., Bayliss, C., & Sagrada, M. (1993). *Traumatic brain injury: The role of schools in assessment*. Eugene, OR: Western Regional Resource Center.

Oregon Department of Education (1988). *Traumatic brain injury: An educator's manual*. Portland, OR: Author.

Utah State Office of Education (1993). *Guidelines for serving students with traumatic brain injuries*. Salt Lake City, UT: Author.

Utah State Office of Education (1993). *Training manual for service providers working with students with traumatic brain injury*. Salt Lake City, UT: Author.

Headlines, a journal published by New Medico Neurologic Rehabilitation System, provides "health care professionals with usable, in-depth information about neurologic injuries and conditions." The address is 14 Central Ave., Lynn MA 01901. Free information is available by calling 1-800-676-6000 Ext. 8515.

The Journal of Head Injury, published by the National Brain Injury Research Foundation, provides "an open forum for the presentation of commentary and perspectives on head injury." Contact National Brain Injury Research Foundation c/o JMA Foundation, Inc., 1730 M Street, NW, Suite 9093, Washington, D.C. 20036 or call 10800 447-8445.